

By: Ellis

S.B. No. 231

A BILL TO BE ENTITLED

AN ACT

relating to establishing ethics and disclosure requirements for certain persons, including financial consultants and advisors, involved in the management or investment of state funds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 10, Government Code, is amended by adding Chapter 2263 to read as follows:

CHAPTER 2263. ETHICS AND DISCLOSURE REQUIREMENTS FOR OUTSIDE FINANCIAL ADVISORS AND SERVICE PROVIDERS

Sec. 2263.001. APPLICABILITY. (a) This chapter applies in connection with the management or investment of any state funds managed or invested:

(1) under the Texas Constitution or other law, including Chapters 404 and 2256; and

(2) by or for:

(A) a public retirement system as defined by Section 802.001 that provides service retirement, disability retirement, or death benefits for officers or employees of the state;

(B) an institution of higher education as defined by Section 61.003, Education Code; or

(C) another entity that is part of state government and that manages or invests state funds or for which state funds are managed or invested.

1       (b) This chapter applies in connection with the management  
2 or investment of state funds without regard to whether the funds are  
3 held in the state treasury.

4       (c) This chapter does not apply to or in connection with a  
5 state governmental entity that does not manage or invest state  
6 funds and for which state funds are managed or invested only by the  
7 comptroller.

8       Sec. 2263.002. DEFINITION. In this chapter, "financial  
9 advisor or service provider" includes a financial advisor,  
10 financial consultant, money or investment manager, or broker.

11       Sec. 2263.003. CONSTRUCTION WITH OTHER LAW. To the extent  
12 of a conflict between this chapter and another law, the law that  
13 imposes a stricter ethics or disclosure requirement controls.

14       Sec. 2263.004. ETHICS REQUIREMENTS FOR OUTSIDE FINANCIAL  
15 ADVISORS OR SERVICE PROVIDERS. The governing body of a state  
16 governmental entity by rule shall adopt standards of conduct  
17 applicable to financial advisors or service providers who are not  
18 employees of the state governmental entity, who provide financial  
19 services to the state governmental entity or advise the state  
20 governmental entity or a member of the governing body of the state  
21 governmental entity in connection with the management or investment  
22 of state funds, and who:

23               (1) may reasonably be expected to receive, directly or  
24 indirectly, more than \$10,000 in compensation from the entity  
25 during a fiscal year; or

26               (2) render important investment or funds management  
27 advice to the entity or a member of the governing body of the

1 entity, as determined by the governing body.

2 Sec. 2263.005. DISCLOSURE REQUIREMENTS FOR OUTSIDE  
3 FINANCIAL ADVISOR OR SERVICE PROVIDER. (a) A financial advisor or  
4 service provider described by Section 2263.004 shall disclose in  
5 writing to the administrative head of the applicable state  
6 governmental entity and to the state auditor:

7 (1) any relationship the financial advisor or service  
8 provider has with any party to a transaction with the state  
9 governmental entity, other than a relationship necessary to the  
10 investment or funds management services that the financial advisor  
11 or service provider performs for the state governmental entity, if  
12 the relationship could reasonably be expected to diminish the  
13 person's independence of judgment in the performance of the  
14 person's responsibilities to the state governmental entity; and

15 (2) all direct or indirect pecuniary interests the  
16 financial advisor or service provider has in any party to a  
17 transaction with the state governmental entity, if the transaction  
18 is connected with any financial advice or service the financial  
19 advisor or service provider provides to the state governmental  
20 entity or to a member of the governing body in connection with the  
21 management or investment of state funds.

22 (b) The financial advisor or service provider shall  
23 disclose a relationship described by Subsection (a) without regard  
24 to whether the relationship is a direct, indirect, personal,  
25 private, commercial, or business relationship.

26 (c) A financial advisor or service provider described by  
27 Section 2263.004 shall file annually a statement with the

1 administrative head of the applicable state governmental entity and  
2 with the state auditor. The statement must disclose each  
3 relationship and pecuniary interest described by Subsection (a), if  
4 any.

5 (d) The state auditor by rule shall prescribe the date by  
6 which the annual statement must be filed. The state auditor may  
7 prescribe a uniform date or may prescribe different dates for  
8 statements filed in relation to different state governmental  
9 entities. The state auditor shall prescribe a form for the annual  
10 statement.

11 (e) The financial advisor or service provider shall  
12 promptly file a new or amended statement with the administrative  
13 head of the applicable state governmental entity and with the state  
14 auditor whenever there is new information to report under  
15 Subsection (a).

16 Sec. 2263.006. PUBLIC INFORMATION. Chapter 552 controls  
17 the extent to which information contained in a statement filed  
18 under this chapter is subject to required public disclosure or  
19 excepted from required public disclosure.

20 SECTION 2. Each state governmental entity required to adopt  
21 rules under Chapter 2263, Government Code, as added by this Act,  
22 shall adopt its initial rules in time for the rules to take effect  
23 not later than January 1, 2004.

24 SECTION 3. This Act takes effect September 1, 2003.